

**UNITED GENERAL TITLE
INSURANCE COMPANY**

**999 EIGHTEENTH STREET, SUITE 3400
DENVER, COLORADO 80202**

NAIC COMPANY #51624

**MARKET CONDUCT EXAMINATION REPORT
AS OF JUNE 30, 2000**

**COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

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(12/07/2001)**

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**Prepared by
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John E. Bell
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Gregory S. Reents**

Market Conduct Examiners

June 7, 2001

The Honorable William J. Kirven III
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected rating, underwriting, claims and general business practices of the title insurance business of United General Title Insurance Company has been conducted. The Company's records were examined at its Denver Corporate Office located at 999 Eighteenth Street, Suite 3400, Denver, Colorado.

The examination covered a one-year period from July 1, 1999 to June 30, 2000.

A report of the examination of United General Title Insurance Company is herein respectfully submitted.

Stephen St. Cyr, CIE
John E. Bell
&
Gregory S. Reents
Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF
UNITED GENERAL TITLE INSURANCE COMPANY**

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COMPANY PROFILE

United General Title Insurance Company, hereinafter referred to as “the Company”, is owned by United General Financial Services Corporation through its wholly owned subsidiary United General Holding Company. The Company has been authorized to transact the business of title insurance in Colorado since November 26, 1990 and changed its state of domicile from Louisiana to Colorado effective June 1, 1999.

The Company is licensed as a title insurer in 34 states and the District of Columbia. It is licensed in California as United Independent Title Insurance Company. The Company believes it is the nation’s largest title insurance underwriter issuing its policies exclusively through independent title agents.

United General Financial Services Corporation actively recruits and services independent title agents on behalf of the Company. Currently the Company has agency agreements with 27 independent title agencies in Colorado.

The Company’s direct premiums written in Colorado for the year ending December 31, 1999 were \$12,343,000 as reported to the Colorado Division of Insurance by the Company.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by market conduct examiners with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado insurance law § 10-1-203, C.R.S., which empowers the Commissioner to conduct market conduct exams. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The market conduct examination covered by this report was performed to assist the Colorado Commissioner of Insurance to meet certain statutory charges by determining Company compliance with the Colorado Insurance Code and generally accepted operating principles. Additionally, findings of a market conduct examination serve as an aid to the Division of Insurance's early warning system. The intent of the information contained in this report is to serve only those purposes.

This examination was governed by, and performed in accordance with, procedures developed by the Colorado Division of Insurance based on the National Association of Insurance Commissioners Model Procedures. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company and its agents. The examination covers one calendar year of the Company's operations, from July 1, 1999 to June 30, 2000.

File sampling was based on review of systematically selected samples of underwriting and claims files by category. Sample sizes were chosen based on guidance from procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any concerns or discrepancies were noted on comment forms which were delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample, the Company was provided a summary of the findings for that sample. The report of the examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report, as reference to any practices, procedures, or files that manifested no improprieties were omitted.

An error tolerance level of plus or minus \$10.00 was allowed in most cases where monetary values were involved, however, in cases where monetary values were generated by computer or system procedure a \$0.00 tolerance level was applied in order to identify possible system errors. Additionally, a \$0.00 tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's rates on file with the Colorado Division of Insurance.

This report contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following eight Company operations:

1. Advertising
2. Complaint Handling.
3. Agent Licensing.
4. General Practices
5. Underwriting Practices.
6. Rate Application.
7. Claims Settlement Practices.
8. Financial Reporting

All unacceptable or non-complying practices may not have been discovered throughout the course of this examination. Additionally, findings may not be material to all areas which would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance of such practices. This report should not be construed to endorse or discredit any insurance company or insurance product. Statutory cites and regulation references are as of the period under examination unless otherwise noted. Examination report recommendations which do not reference specific insurance laws, regulations, or bulletins are presented to encourage improvement of company practices and operations and ensure consumer protection. Examination findings may result in administrative action by the Division of Insurance.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of eleven (11) issues, arising from the Company's apparent noncompliance with Colorado statutes and regulations concerning all title insurers authorized to transact title insurance business in Colorado. These eleven (11) issues fell into five (5) of the eight (8) categories of Company operations as follows:

General Practices:

In the area of general practices, two (2) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements which must be followed whenever title policies are issued in Colorado. The incidence of noncompliance in the area of general practices exhibits a frequency range between 2.8% and 100.0%. With regard to these general practices, it is recommended that the Company review its underwriting procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to all issues.

Underwriting Practices:

In the area of underwriting, three (3) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements which must be followed whenever title policies are issued in Colorado. The incidence of noncompliance in the area of underwriting exhibits a frequency range between 9% and 41%. With regard to these underwriting practices, it is recommended that the Company review its underwriting procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to all issues.

Rating Practices and Application:

In the area of rating practices and application, three (3) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements which must be followed whenever title policies are issued in Colorado and whenever title insurers or the insurer's agents conduct real estate or loan closing and/or settlement service for Colorado consumers. The incidence of noncompliance in the area of rating demonstrates an error frequency between 2.0% and 56.0%. With regard to the compliance issues addressed in relation to the Company's rating practices, it is recommended that the Company review its rating manuals and procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to all issues.

Claims Settlement Practices:

In the area of claim settlement practices, two (2) compliance issues are addressed in this report. These issues arise from Colorado statutory and regulatory requirements dealing with the fair and equitable settlement of claims. The incidence of noncompliance in the area of claims practices shows a frequency range of error between 11.1% and 97.2%. With regard to the compliance issues addressed in relation to the Company's claims settlement practices, it is recommended that the Company review its claims handling

procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to all issues.

Financial Reporting:

In the area of financial reporting and other miscellaneous compliance issues, one (1) compliance issue is addressed in this report. This issue arose from specific Colorado statutory and regulatory requirements requiring title insurers to file certain financial data and to provide annual statistical justification and data to support title insurance rates used in Colorado. With regard to this compliance issue, it is recommended that the Company review its annual filing procedures and make the necessary changes to assure future compliance with applicable statutes and regulations.

PERTINENT FACTUAL FINDINGS

**Market Conduct Examination Report
of
UNITED GENERAL TITLE
INSURANCE COMPANY**

PERTINENT FACTUAL FINDINGS

for

GENERAL PRACTICES

Issue A: Failure to provide the required anti-fraud language on all printed applications for insurance, or on all insurance policies or on all claim forms made available by the Company.

Section 10-1-127(7), C.R.S. provides:

(a) On and after January 1, 1997, each insurance company shall provide on all printed applications for insurance, or on all insurance policies, or on all claim forms provided and required by an insurance company, or required by law, whether printed or electronically transmitted, a statement, in conspicuous nature, permanently affixed to the application, insurance policy, or claim form substantially the same as the following:

“It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance, and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.”

**TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
16,369	100	100	100.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination showed 100 exceptions (100.0% of the sample) wherein the Company failed to provide the anti-fraud language on each policy issued during the period under examination as required by section 10-1-127(7)(a), C.R.S.

Additionally, all Company claim forms used in Colorado during the period under examination failed to include the required anti-fraud language.

The Company does not provide or maintain an application for title insurance.

Recommendation #1:

Within 30 days, the Company should demonstrate why it should not be considered in violation section 10-1-127(7)(a), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has adopted and implemented a complying practice to provide the required anti-fraud language on all printed applications for insurance, or on all insurance policies or on all claim forms made available by the Company.

Issue B: Failure to maintain adequate policy records and/or other information necessary for reconstruction of the rating and/or underwriting of title policies issued by the Company. Failure to produce and/ or maintain adequate claims records for market conduct review.

Colorado Insurance Regulation 1-1-7(III) provides in pertinent parts:

B. RECORDS REQUIRED FOR MARKET CONDUCT PURPOSES

1. Every insurer/carrier or related entity licensed to do business in this state shall maintain its books, records, documents and other business records so that the insurer's/carrier's or related entity's claims, rating, underwriting, marketing, complaint, and producer licensing records are readily available to the commissioner. Unless otherwise stated within this regulation, records shall be maintained for the current calendar year plus two calendar years.

2. A policy record shall be maintained for each policy issued in this state. Policy records shall be maintained for the current policy term, plus two calendar years, unless otherwise contractually required to be retained for a longer period. Provided, however, documents from policy records no longer required to be maintained under this regulation, which are used to rate or underwrite a current policy, must be maintained in the current policy records. Policy records shall be maintained as to show clearly the policy term, basis for rating and, if terminated, return premium amounts, if any. Policy records need not be segregated from the policy records of other states so long as they are readily available to the commissioner as required under this rule. A separate copy need not be maintained in the individual policy records, provided that any data relating to that policy can be retrieved. Policy records shall include:

- a. The application for each policy, if any;
- b. Declaration pages, endorsements, riders, termination notices, guidelines or manuals associated with or used for the rating or underwriting of the policy. Binder(s) shall be retained if a policy was not issued; and
- c. Other information necessary for reconstruction of the rating and underwriting of the policy.

3. Claim files shall be maintained so as to show clearly the inception, handling and disposition of each claim. A claim file shall be retained for the calendar year in which it is closed plus the next two calendar years.

TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000

Population	Sample Size	Number of Exceptions	Percentage to Sample
16, 369	100	6	6.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination showed 6 exceptions (6.0% of the sample) wherein the Company failed to adequately document underwriting/rating files sufficient to allow the examiners to determine compliance with Colorado law.

In one (1) of the six (6) exceptions the selected underwriting and/or escrow file did not contain evidence or proof of the premium charged and the premium paid.

In one (1) of the six (6) exceptions the selected underwriting and/or escrow file did not contain evidence that the lender requested deletion of exceptions 1-4. Such lender's title insurance policy was subsequently issued with the deletion of exceptions 1-4.

In one (1) of the six (6) exceptions the selected underwriting and/or escrow file did not contain the tax certificate or copy thereof.

In three (3) of the six (6) exceptions the selected underwriting and/or escrow file did not have a prior title policy, or a copy thereof, as required by the Company short term rule to permit a discounted rate. In each of these exceptions the Company based the short term rate on a prior deed of trust in the file containing the stamp of the prior insuring entity, rather than basing the rate on a prior policy as required by the Company rule.

TITLE CLAIMS
July 1, 1999 through June 30, 2000

Population	Sample Size	Number of Exceptions	Percentage to Sample
36	36	1	2.8%

An examination of all 36 claim files, representing 100% of all title claims submitted to the Company in Colorado during the period under examination, showed 1 exception (2.8% of the sample) wherein the Company failed to adequately document a claim file sufficient to allow the examiners to determine compliance with Colorado law. Specifically, in this file the Company could not produce pertinent records showing the handling and disposition of the claim.

Recommendation #2:

Within 30 days, the Company should provide written documentation demonstrating why it should not be considered in violation of Colorado Insurance Regulation 1-1-7, as authorized by section 10-1-109, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating the Company has reviewed its procedures pertaining to record maintenance to ensure future compliance with the regulation

Once the Company has reviewed those procedures, the Company should be required to demonstrate it has amended its record keeping and file maintenance practices and implemented procedures which will assure underwriting files will be maintained so each file contains information necessary for reconstruction of the rating and underwriting of the policy. Additionally, the Company should be required to demonstrate it has amended its claims procedures which will assure claim files will be maintained so as to clearly show the inception, handling and disposition of each claim and generally assure future compliance with the requirements of the law.

PERTINENT FACTUAL FINDINGS

for

UNDERWRITING PRACTICES

Issue C: Failure to provide written notification to prospective insureds of the Company's general requirements for the deletion of the standard exception or exclusion to coverage related to unfiled mechanic's or materialman's liens and/or mandatory GAP coverage.

Colorado Insurance Regulation 3-5-1(VII), adopted in part pursuant to the authority granted under §§10-1-109 and 10-3-1110, C.R.S., states in pertinent parts:

(C) Every title entity shall be responsible for all matters which appear of record prior to the time of recording whenever the title entity conducts the closing and is responsible for recording or filing of legal documents resulting from the transaction which was closed.

(L) Each title entity shall notify in writing every prospective insured in an owner's title insurance policy for a single family residence (including a condominium or townhouse unit) (i) of that title entity's general requirements for the deletion of an exception or exclusion to coverage relating to unfiled mechanics or materialman's liens, except when said coverage or insurance is extended to the insured under the terms of the policy and (ii) of the circumstances described in Paragraph C of Article VII of these Regulations, under which circumstances the title insurer is responsible for all matters which appear of record prior to the time of recording (commonly referred to as "Gap Coverage").

The Company's standard printed Schedule B policy exceptions contain the following general exclusionary language for all unfiled mechanic or materialman's liens:

This policy does not insure against loss or damage and the Company will not pay costs, attorneys' fees or expenses which arise by reason of:

4. Any lien, or right to a lien, for services, labor or material heretofore or hereinafter furnished, imposed by law and not shown by the public records.

A review of the Company's underwriting and rating manuals demonstrated that, during the period under examination, the Company offered coverage in an owner's title insurance policy for unfiled mechanic's and materialman's liens. Such coverage was available through the Company via deletion of the printed exceptions, an extended coverage endorsement, or by purchasing a plain language policy. Additionally, this coverage was available by issuing Company endorsements 110.1 or 110.2 which insured over particular named exceptions. In addition, a review of Company underwriting and escrow files demonstrated that, during the period under examination, the Company conducted several closings in coordination with the issuance of title insurance policies insuring title to single family dwellings. As indicated by the Regulation cited above, whenever a title insurer or its agent conducts a closing in relation to a title policy issued and is responsible for recording the documents resulting from the real estate transaction,

Colorado Insurance Regulation 3-5-1(VII)(L) mandates coverage for all matters appearing of record prior to the time of recording (Gap coverage).

The following sample demonstrated that, although the Company offered coverage for unfilled mechanic's and materialman's liens and was often responsible for the regulatory mandated Gap coverage, the Company failed to make the appropriate written disclosures regarding its general requirements for unfilled mechanic's or materialman's lien coverage and/or failed to provide notice of the existence of Gap coverage where such notices were required:

**TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
16,369	100	12	12.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination, showed 12 exceptions (12.0% of the sample) wherein the Company failed to provide the insured with the requisite written notice regarding the availability and/or prerequisites of such coverages as required Colorado Insurance Regulation 3-5-1(VII)(L).

More specifically, in 7 of the 12 exceptions, the Company failed to provide the insured with notice of the existence of Gap coverage and its general requirements for the deletion of standard exception or exclusion to coverage related to unfilled mechanic's or materialman's liens. In 5 of the 12 exceptions, the Company failed to provide the insured with notice of the existence of Gap coverage.

Recommendation #3:

Within 30 days, the Company should demonstrate why it should not be considered in violation of Colorado Insurance Regulation 3-5-1(VII)(C) and (L). In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has amended its underwriting guidelines, agency agreements or other Company procedures necessary to implement the requisite change so that those procedures and guidelines include a requirement that will assure the Company will provide prospective insureds with written notification of the Company's general requirements for the deletion of the Company's general exception or exclusion to coverage for unfilled mechanic's liens and Gap coverage.

Issue D: Misrepresenting the benefits, advantages, conditions or terms of insurance policies by omitting applicable endorsements.

Section 10-3-1104(1), C.R.S. defines certain unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(a) Misrepresentations and false advertising of insurance policies: Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, circular, statement, sales presentation, omission, or comparison which:

(I) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy;

A review of the following sample demonstrated that, when the Company issued a title insurance policy in Colorado during the period under examination, the Company often failed to identify, itemize or list policy endorsements in a declarations page or otherwise include such information within the written terms of title insurance policies issued:

**TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
16,369	100	41	41.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination, showed 41 exceptions (41.0% of the sample). In all 41 exceptions the Company issued title insurance policies without itemizing the inclusive endorsements on a policy declaration page or otherwise disclosing such information within the written terms of the policy issued.

In the forty-one (41) exceptions, the Company's only method of notifying prospective insureds of the endorsement(s) requested by an insured for inclusion in the prospective title insurance policy was to provide a statement of charges at the top of the respective insured/applicant's initial commitment papers. Upon issuing the title insurance policy the terms of the last update of the commitment were incorporated into the title policy, however, the Company omitted the listing of inclusive endorsements that appeared within the terms of the original commitment papers. Therefore, upon issuance of the policy, any endorsements or riders were not listed or otherwise itemized within the terms of the title policy issued.

Furthermore, a review of the selected underwriting and accompanying escrow files revealed that the two (2) files within the sample of one-hundred (100) did provide an

itemized listing of the endorsements on the policy declarations page or otherwise disclosed such information within the written terms of the policy issued.

The remaining fifty-seven (57) selected underwriting and accompanying escrow files from the sample included policies not requiring endorsements thereby not requiring an itemized list of such.

Recommendation #4:

Within 30 days, the Company should demonstrate why it should not be considered in violation of section 10-3-1104(1)(a)(I), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has amended its policy forms and endorsements and underwriting guidelines and procedures and any other requisite Company operations so that all title policies issued by the Company incorporate a listing of any endorsements and/or riders on the policy declaration page or within the terms of the policy as to all future policies issued by the Company.

Issue E: Issuing title insurance policies without obtaining a certificate of taxes due or other equivalent documentation from the county treasurer or the county treasurer's authorized agent.

Section 10-11-122, C.R.S. provides:

(3) Before issuing any title insurance policy, unless the proposed insured provides written instructions to the contrary, a title insurance agent or title insurance company shall obtain a certificate of taxes due or other equivalent documentation from the county treasurer or the county treasurer's authorized agent.

**TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
16,369	100	9	9.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination, showed 9 exceptions (9.0% of the sample) wherein the file does not contain documentation in support of the company issuing title insurance policies without first obtaining a certificate of taxes due or other equivalent documentation. None of the exceptions reported here contained information demonstrating that the respective insured had provided written instructions waiving the requirement.

Recommendation #5:

Within 30 days, the Company should demonstrate why it should not be considered in violation of section 10-11-122(3), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has adopted and implemented procedures which will assure that, whenever the Company issues a title policy in Colorado, the Company or its agent will obtain a certificate of taxes due or other equivalent documentation for the subject property of which title is to be insured.

PERTINENT FACTUAL FINDINGS
for
RATING PRACTICES AND APPLICATION

RATING PRACTICES and APPLICATION

Pertinent Factual Findings

Schedule of Rates, Rating Rules & Charges

Title Insurance Policies

Issue F: Failure to provide adequate financial and statistical data of past and prospective loss and expense experience to justify certain title insurance charges and/or premium rates.

Section 10-4-401, C.R.S., provides:

(b) Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Section 10-4-403, C.R.S., provides:

(1) Rates shall not be excessive, inadequate, or unfairly discriminatory.

Section 10-11-118(2), C.R.S., requires:

(a) Every title insurance company and title insurance agent shall have on file in the company's or agent's principal office within the state:

(III) Information or supporting documentation that demonstrates compliance with section 10-4-403.

Colorado Insurance Regulation 3-5-1(VI), adopted in part to the authority granted under §10-4-404, C.R.S. provides:

K. Each title entity on an annual basis shall provide to the Commissioner of Insurance sufficient financial data (and statistical data if requested by the Commissioner) for the Commissioner to determine if said title entities' rates as filed in the title entities' schedule of rates are inadequate, excessive, or unfairly discriminatory in accordance with Part 4 of Article 4 of Title 10, C.R.S.

Each title entity shall utilize the income, expense and balance sheet forms, standard worksheets and instructions contained in the attachments labeled "Colorado Uniform Financial Reporting Plan" and "Colorado Agent's Income and Expense Report" designated as attachments A & B and incorporated herein by reference. Reproduction by insurers is authorized, as supplies will not be provided by the Colorado Division of Insurance.

Colorado Insurance Regulation 5-1-10(III)(B) provides:

1. Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

4. Each rate filing must be accompanied by rating data, as specified in § 10-4-403, C.R.S., including at a minimum past and prospective loss experience, loss costs or pure premium rates, expense provisions, and reasonable provisions for underwriting profits and contingencies, considering investment income from unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported losses.

Additional Charge Provisions

The Company's rate manual effective in Colorado during the period under examination contained the following additional charge provision:

1.2 ADDITIONAL CHARGE PROVISIONS:

Additional charges will be made when unusual conditions or title are encountered, or when special risks are insured, or when special services are rendered, or if multiple legal descriptions are to be insured, or when physical inspections are required. The charge for an extraordinary title examination will be a minimum premium of \$50.00 in addition to the Basic Rate.

Cancellation Charges

The Company's rate manual effective during the period under examination contained, in part, the following cancellation charges:

1.6 C Cancellation Charges:

If the commitment is issued and if the order is cancelled, a minimum cancellation fee of \$100.00 must be paid, except that the cancellation fee need not be imposed where a title insurance commitment is furnished in good faith in furtherance of a bona fide sale,...

Duplicate Policies

The Company's rate manual effective during the period under examination contained the following service charge for each duplicate policy:

1.8 Duplicate Policies

Duplicate policies in which no additional insurance is given may be furnished to the insured at the discretion of the issuing company for a service charge of \$25.00 each. The duplicate policy must contain a statement: "This policy is issued in lieu of lost policy number _____, which is hereby cancelled".

Correction Due To Error or Misunderstanding

The Company's rate manual effective during the period under examination contained the following charge for a correction due to error or misunderstanding:

1.9 Correction Due to Error or Misunderstanding

The charge for a policy to correct an error or misunderstanding not the fault to the issuing company, by or between the parties to a transaction will be a minimum service charge of \$25.00 and a maximum service charge of \$250.00. Endorsement Form 110.3 is authorized for use to correct errors in commitments and/or policies and where no change in the effective date is required. In addition, this endorsement form is for use in extending the termination date of commitments as provided for in 1.7B above. This endorsement is not authorized for use in providing affirmative coverage or for other coverages provided in specifically filed endorsements.

Employee Rate

The Company's rate manual effective in Colorado during the period under examination contained the following employee rate:

1.11 EMPLOYEE RATE

A charge of 25% of the Basic rate may be made to employees of the Company, its subsidiaries or affiliated companies (including employees on approved retirement), for policies issued in connection with the financing, refinancing, sale or purchase of the employee's bona fide home property. The discount rate for such charges is authorized only in connection with those costs which the employee would be obligated to pay, by established custom, as a party to the transaction.

Churches or Charitable Non-Profit Organizations

The Company's rate manual effective in Colorado during the period under examination contained the following church or charitable non-profit organization rate:

1.12 CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS:

A charge of 50% of the Basic Rate may be charged as to owner's and/or lender's insurance property paid for by insured churches, charitable or like eleemosynary non-profit organizations own property dedicated to church or charitable use within the normal activities for which such entities were intended. The Basic Rate, with one discount, applies on policies issued on all other property.

Governmental Rate

The Company's rate manual effective in Colorado during the period under examination contained the following governmental rate:

1.13 GOVERNMENTAL RATE

El Paso County only – A charge of 50% of the Basic Rate may be charged as to owners policies provided by the United States Government to purchasers of such property.

ALTA Plain Language (1 to 4 Family Residences)

The Company's rate manual effective in Colorado during the period under examination contained the following plain language charges:

2.3 B ALTA Plain Language (1 to 4 Family Residences)

Its coverage and other provisions are written in easily understandable language which uses as few technical and legal terms as possible for this kind of insurance. Because of the positive statements of coverage given by this policy and its easy readability, the character and extent of the coverage it provides are self-explanatory. The policy is to be used for one to four family residences. The charge will be the Basic Schedule of Rates plus \$35 for Denver, Jefferson, Arapahoe, Douglas, Elbert and Adams Counties. All other Counties \$30.00.

Commercial/Industrial Rate

The Company's rate manual effective in Colorado during the period under examination contained the following commercial/industrial rate:

2.13 COMMERCIAL/INDUSTRIAL RATE:

When an owner's policy is ordered on Commercial/Industrial property the following rates may be charged: 65% of the Basic Schedule of Rates for the first \$200,000 of the insured amount of each policy plus 80% of the Basic Schedule of Rates for the insurance above that amount.

Combined Rate

The Company's rate manual effective in Colorado during the period under examination contained the following combined rate:

3.1 C Combined Rate:

When insuring a construction loan package consisting of a new construction loan and an owner's policy (to new owner):

The charge for the combined policies will be 75% of the Basic Schedule of Rates based upon owner's policy insured amount. The premium will be calculated as follows:

1. 50% of the basic rate based on construction loan amount.
2. 75% of the basic rate based on owner's policy insured amount with full credit given for premium received for construction loan policy.

Construction Loan Rate

The Company's rate manual effective in Colorado during the period under examination contained the following construction rate:

3.1 D Construction Loan Rate:

Where no transfer of title is involved requiring owner's insurance. 50% Basic Schedule of Rates.

Residential Combined Rate

The Company's rate manual effective in Colorado during the period under examination contained the following residential combined rate:

3.3 E Residential Combined Rate:

Weld County Only – When insuring a construction loan package consisting of a construction loan and an owner's policy (to new owner):

The charge for the combined policies will be 65% of the Basic Schedule of Rates based upon owner's policy insured amount. The premium will be calculated as follows:

1. 50% of the basic rate based on construction loan amount.
2. 65% of the basic rate based on owner's policy insured amount with full credit given for premium received for construction loan policy.

Subdivision Rates

The Company's rate manual effective in Colorado during the period under examination contained the following subdivision rate:

5.1 CHARGE:

50% of the Basic Schedule of Rates.

These rates are applicable only when three or more policies are to be issued insuring three or more different purchasers. The rate per unit is based upon the full value of each separate sale. When two or more lots or units of occupancy are sold to a common purchaser, the rate is based upon the aggregate value of the lots or units being conveyed, and such purchaser of three or more lots or units of occupancy is entitled to the Subdivision rate upon a sale of the lots or units or occupancy previously insured.

Subdivision Guarantee

The Company's rate manual effective in Colorado during the period under examination contained the following subdivision guarantee charge.

5.3 SUBDIVISION GUARANTEE

Guarantees for map filing, including the examination of the map, letter of dedication and necessary tax letter may be issued covering a proposed subdivision for a \$50.00 base charge plus \$20.00 minimum additional charge for each ownership easement, right-of-way, or interest searched or reported on.

Time Share Units

The Company's rate manual effective in Colorado during the period under examination contained the following time share unit charge.

5.4 TIME SHARE UNITS:

Archuleta County only:

When the time share unit consists of 50 or more time share intervals, the rate shall be \$110.00 minimum for insurance up to \$15,000.00. For insurance in excess of \$15,000.00 the rate premium would be computed in accordance with the normal subdividers rate under the Basic Schedule of Rates for each unit.

Vacated street or alley, easement or right-of-way covered in connection with the issuance of a policy

The Company's rate manual effective in Colorado during the period under examination contained rating rule charge:

6.1 VACATED STREET OR ALLEY, EASEMENT OR RIGHT-OF-WAY COVERED IN CONNECTION WITH THE ISSUANCE OF A POLICY:

The vacated portion of a street or alley, or an easement or right-of-way appurtenant to or adjoining the land under search, is considered as non-contiguous to the abutting parcel unless it has been previously insured in the same ownership with the abutting parcel. If it has not been previously insured, the minimum additional charge is \$25.00.

Foreclosure Guarantee

The Company's rate manual effective in Colorado during the period under examination contained foreclosure guarantee charge:

6.7 FORECLOSURE GUARANTEE:

A report showing the state of title as of a specified date for purposes of a foreclosure. The rate are as follows:

- A. Residential and Commercial Rate:
\$110.00 up to \$300,000.00
\$250.00 - \$300,000.00 up to \$1,000,000.00
\$350.00 - \$1,000,000.00 up to \$5,000,000.00
\$450.00 - \$5,000,000.00 and above
- Condominium Interval Week:
\$125.00 + \$5.00 per entry
- B. Residential and Commercial Rate Grand County Only:
\$250.00 up to \$100,000.00
\$250.00 plus \$.50 per \$1,000. over \$100,000.00

Subdivision Guarantee

6.9 SUBDIVISION GUARANTEE

Guarantees for map filing, including the examination of the map, letter of dedication and necessary tax letter may be issued covering a proposed subdivision for \$50.00 base charge plus \$25.00 minimum additional charge for each ownership easement, right-of-way, or interest searched or reported on.

The Examiners requested Company representatives to produce the Company's financial and statistical data to demonstrate that each above cited rate, rating rule and/or charge was not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq., C.R.S. The Company's response did not contain pertinent supporting financial or statistical data. In addition the Company's response did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of each charge and/or premium rate.

OWNER'S AND LENDER'S SHORT TERM RATES FOR ALL COUNTIES IN COLORADO; GENERALLY

During the period under examination the Company's rates contemplated a "short term rate" discount for all title insurance policies issued by the Company within a fixed period of prior coverage. Although the Company's short term rate was available throughout Colorado, the term of eligibility and discount percentage varied by county. The Examiners requested Company representatives to produce the Company's financial and statistical data to demonstrate that its entire basic rate schedule was not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq., C.R.S.

The Company's response did not contain pertinent supporting financial or statistical data. In addition the Company's response did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the basic rate schedule.

**BASIC RATES FOR ALL COUNTIES AND RATE FLUCTUATIONS
BETWEEN COUNTIES; GENERALLY**

The Examiners requested Company representatives to produce the Company's financial and statistical data to demonstrate that its entire basic rate schedule was not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq., C.R.S. The Company's response did not contain pertinent supporting financial or statistical data. In addition the Company's response did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the basic rate schedule.

**CONCURRENT LENDERS RATE DEVIATIONS BETWEEN COUNTIES;
GENERALLY**

The Examiners requested Company representatives to produce the Company's financial and statistical data to demonstrate that its premium rate charges for concurrent lender policies was not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq., C.R.S. The Company's response did not contain pertinent supporting financial or statistical data. In addition the Company's response did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the basic rate schedule.

**DELETION OF STANDARD EXCEPTIONS (INCLUDING MECHANICS
LIEN)**

The Examiners requested Company representatives to produce the Company's financial and statistical data to demonstrate that its charges for the deletion of standard exceptions for the owner's and lender's policies were not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq., C.R.S. The Company's response did not contain pertinent supporting financial or statistical data. In addition the Company's response did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the basic rate schedule.

PACKAGE REFINANCE RATE - Adams, Arapahoe, Denver, Douglas, Elbert and Jefferson Counties

The Examiners requested Company representatives to produce the Company's financial and statistical data to demonstrate that its rates, rating rules and charges for the package refinance rate were not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq., C.R.S. The Company's response did not contain pertinent supporting financial or statistical data. In addition the Company's response did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the basic rate schedule.

RATE MANUAL

The Examiners requested Company representatives to produce the Company's financial and statistical data to demonstrate that its rates, rating rules and charges for the entire rate manual were not inadequate, excessive, or unfairly discriminatory as those terms are defined under 10-4-401 et seq., C.R.S. The Company's response did not contain pertinent supporting financial or statistical data. In addition the Company's response did not consider past and prospective loss and expense experience and the response did not identify or explain how a reasonable profit provision was incorporated into the development of the basic rate schedule.

Recommendation #6:

Within 30 days, the Company should demonstrate why it should not be considered in violation of sections 10-4-401(b), 10-4-403(1), and 10-11-118(2)(a)(III) C.R.S., and Colorado Insurance Regulations 3-5-1(VI)(A), (B) and (K) and 5-1-10(III)(B)(1) and (4) as applicable to the findings addressed in the text above. In the event the Company is unable to provide such documentation, it should be required to provide the Colorado Division of Insurance with adequate financial and statistical data of past and prospective loss and expense experience to justify the cited Company premium rates, fees, and charges. The filing should specifically identify and explain how a reasonable profit provision is incorporated into the development of the Company's premium rates, fees and charges.

In addition, the Company should be required to provide written assurance that it will comply with the requirements of Colorado Insurance Regulation 3-5-1(VII)(K) and submit an annual filing to the Colorado Division of Insurance of sufficient financial data (and statistical data if requested by the Commissioner) for the Commissioner to determine if said title entities' rates as filed in the title entities' schedule of rates are inadequate, excessive, or unfairly discriminatory in accordance with section 10-4-401, C.R.S. et seq.

Issue G: Using rates and/or rating rules not on file with the Colorado Division of Insurance and/or misapplication of filed rates and rating rules.

Section 10-4-401(3), C.R.S., provides:

(b) Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104(1)(f), C.R.S., defines unfair discrimination as:

(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Consistent with the provision of §10-4-401 et seq., Colorado Insurance Regulation 3-5-1 requires all title insurers offering coverage in Colorado to comply with Colorado laws and regulations regarding rates and rating practices. Specifically, the regulation provides in pertinent parts:

IV. SCHEDULE OF RATES, FEES AND CHARGES--TITLE INSURANCE POLICIES

A. Every title insurer shall adopt, print and make available to the public a schedule of rates, fees and charges for regularly issued title insurance policies including endorsements, guarantees and other forms of insurance coverages, together with the forms applicable to such fees.

G. Such schedule must be filed with the Commissioner in accordance with Part 4 of Article 4, Title 10, C.R.S., and Section 118, Article 11, Title 10, C.R.S., and any applicable regulation or regulations on rates, rate filings, rating rules, classification or statistical plans.

J. No title entity shall quote any rate, fee or make any charge for a title policy to any person which is more or less than that currently available to others for the same type of title policy in a like amount, covering property in the same county and involving the same factors as set forth in its then currently effective schedule of rates, fees and charges.

Colorado Insurance Regulation 5-1-10(III)(B) provides

1. Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

4. Each rate filing must be accompanied by rating data, as specified in § 10-4-403, C.R.S., including at a minimum past and prospective loss experience, loss costs or pure premium rates, expense provisions, and reasonable provisions for underwriting profits and contingencies, considering investment income from unearned premium reserves, reserves from incurred losses, and reserves from incurred but not reported losses

The following sample demonstrated that, in some instances during the period under examination, the Company used rates and/or rating rules not on file with the Colorado Division of Insurance and/or misapplication of filed rates and rating rules:

**TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
16,369	100	56	56.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination, showed 56 exceptions (56.0% of the sample) containing 76 instances wherein the Company issued title insurance policies using rates and/or rating rules not on file with the Colorado Division of Insurance and/or misapplication of filed rates and rating rules.

Many files reviewed contained more than one rating error, however, to maintain sample integrity, each file was considered as a singular exception regardless of the total instances contained within the file. Thus, the exception frequency reported above was 56.0%, however, the 100 systematically selected underwriting and accompanying escrow files reviewed contained a total of 76 instances of premium rating errors. The following contains a breakdown of the findings by coverage:

Type of Coverage	Number of Errors	Range of Errors
Owner's Policy	28 errors	Over: \$ 0.25 to \$294.50 (10 errors) Under: \$1.00 to \$506.00 (18 errors)
Lender's Policy	22 errors	Over: \$1.00 to \$31.00 (7 errors) Under: \$0.50 to \$600.00 (15 errors)
Foreclosure Guarantee	1 error	Over: \$65.00 (1 error) Under: N/A
Endorsements	23 errors	Over: \$0.30 to \$25.00 (20 errors) Under: \$28.00 to \$69.00 (3 errors)
TOTAL	74 errors*	Over: \$0.25 to \$294.50 (39 errors) Under: \$0.50 to \$600.00 (37 errors)

*The remaining two additional instances of premium rating errors (#75 and #76) are discussed below:

In one (1) instance a rating error occurred when the Company charged \$25.00 for an inflation endorsement that does not exist in the rate manual.

In the remaining one (1) instance, the Company charged \$350.00 for the owner's policy premium and \$100.00 for the lender's policy premium. The premiums should have been a combined policy charge of \$506.00.

Recommendation #7:

Within 30 days the Company should provide documentation demonstrating why it should not be considered in violation of sections 10-3-1104(1)(f)(II) and 10-4-403, C.R.S., and the filing requirements of Colorado Insurance Regulations 3-5-1 and 5-1-10. In the event the Company is unable to provide such documentation, it should be required to provide assurances that all future policies will be issued in accordance with filed company rates and all premium charges will accurately reflect rates on file with the Colorado Division of Insurance.

It is further recommended that the company perform a self-audit of the title policies issued from 7/1/1999 to present to return any excess monies collected as determined by the self-audit. Such self-audit shall be performed in accordance with the "Guidelines for Self Audits Performed by Companies" which are available from the Colorado Division of Insurance Market Conduct Section.

Issue H: Engaging in unfairly discriminatory rating practices and adopting rate rules and/or premium charges that are excessive, inadequate or unfairly discriminatory.

Section 10-3-1104(l)(f), C.R.S., defines an unfair method of competition or deceptive act or practice in the business of insurance as:

(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 10-4-403, C.R.S., provides:

(1) Rates shall not be excessive, inadequate, or unfairly discriminatory.

Unfairly Discriminatory Rating Practices – Owner’s and Lender’s Short Term Rating Rules:

A review of the new business policies transacted during the examination period revealed that the Company’s short term rating rules language lack guidelines and/or direction on how to determine the premium for a title policy when more than one “prior policy” qualifies for a short term rate. Such deficiency creates a permissive, discretionary element that allows the Company to inconsistently apply the short term rate when two or more prior policies (with different prior insuring amounts) qualify. Permissive, discretionary rating rules that allow for potential disparate treatment between individuals of the same class and of essentially the same hazard and/or expense in amount of premium charged violate Colorado anti-discrimination statutes.

**TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
16,369	100	6	6.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination, showed 6 exceptions (6.0% of the sample) wherein the Company inconsistently determined the premium and issued title insurance policies with a short term rate when two or more prior policies qualified for a short term rate discount.

In two (2) issued policies, the Company underwriting and/or escrow files contained more than one prior title insurance policy that qualified for a short term rate. In both cases, the Company elected to grant the short term rate on the lower prior policy liability amount, which was the most recent prior transaction.

In one (1) policy issued, the Company underwriting and/or escrow file contained more than one prior title insurance policy that qualified for a short term rate. The Company elected to grant the short term rate on the higher prior policy liability amount, which was not the most recent prior transaction.

In one (1) policy issued, the Company underwriting and/or escrow file contained more than one prior title insurance policy that qualified for a short term rate. The Company elected to grant the short term rate on the higher prior policy liability amount, which was the most recent prior transaction.

In one (1) policy issued, the Company underwriting and/or escrow file contained more than one prior title insurance policy issued on the same date with different insuring amount that qualified for a short term rate. The Company elected to grant the short term rate on the lower prior policy liability amount.

In one (1) policy issued, the Company underwriting and/or escrow file contained more than one prior title insurance policy that qualified for a short term rate. The Company elected to grant the short term rate on the lower prior policy liability amount, which was not the most recent prior transaction.

These six exceptions all demonstrate that the lack of a guideline and/or direction found within each short term rate creates permissive, unfairly discriminatory rating practices.

Unfairly Discriminatory Rating Practices – Failing to Offer and/or Provide Qualified Applicants with Package Refinance Rate:

Notwithstanding the discussion under Issue I above regarding premium rating errors, the Company's rate manual, effective throughout Colorado during the period under examination, contained a premium discount rule in the form of a package refinance rate in Adams, Arapahoe, Denver, Douglas, Elbert and Jefferson Counties.

A review of the following sample demonstrated the Company failed to honor the discount when issuing qualifying title policies:

**TITLE POLICIES ISSUED
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
16,369	100	2	2.0%

An examination of 100 systematically selected underwriting and accompanying escrow files, representing 0.61% of all title policies issued by the Company in Colorado during the period under examination, showed 2 exceptions (2.0% of the sample) wherein the Company issued title insurance policies and endorsements and failed to offer and/or provide the Package Refinance Rate discount to qualified applicants for title insurance coverage.

The 2 policies reported here were eligible for the cited discount, however, the files did not reflect the discount was ever offered or provided. The end result was that the policies should have been issued at a significant reduction in premium resulting in overcharges of \$51.00 and \$242.00.

Adopting basic rates that are excessive, inadequate or unfairly discriminatory:

The “Basic Schedule of Rates” implemented and effective for Grand County during the period of 10/13/94 – 5/1/2000 contains a discrepancy between the rate manually produced and the rate sheet for all liability equal to \$55,000.00 and above. Furthermore, this discrepancy may permit an inconsistent basic premium determination for all owner’s or lender policy’s that contain liability equal to or greater than \$55,000.00.

Discretionary rules pertaining to the application of discounted basic rate charges and/or valuation of leasehold insurance policies:

The Company’s rating manual contained the following permissive, discretionary rating rule for the application of an employee rate:

1.11 EMPLOYEE RATE

A charge of 25% of the Basic rate may be made to employees of the Company, its subsidiaries or affiliated companies (including employees on approved retirement), for policies issued in connection with the financing, refinancing, sale or purchase of the employee’s bona fide home property. The discount rate for such charges is authorized only in connection with those costs which the employee would be obligated to pay, by established custom, as a party to the transaction.

The cited rating rule contains a permissive element by stating, “A charge of 25% of the Basic Rate may be made to employees of the Company...” Aside from the above stated rating rule, no guidelines were provided for determining when the Company must apply this discount.

The Company’s rating manual contained the following permissive, discretionary rating rule for the application of a church or charitable non-profit rate:

1.12 CHURCHES OR CHARITABLE NON-PROFIT ORGANIZATIONS:

A charge of 50% of the Basic Rate may be charged as to owner's and/or lender's insurance property paid for by insured churches, charitable or like eleemosynary non-profit organizations own property dedicated to church or charitable use within the normal activities for which such entities were intended. The Basic Rate, with one discount, applies on policies issued own all other property.

The cited rating rule contains a permissive element by stating, "A charge of 50% of the Basic Rate may be charged..." Aside from the above stated rating rule, no guidelines were provided for determining when the Company must apply this discount.

The Company's rating manual contained the following permissive, discretionary rating rule for the application of a government rate:

1.13 GOVERNMENTAL RATE

El Paso County only – A charge of 50% of the Basic Rate may be charged as to owners policies provided by the United States Government to purchasers of such property.

The cited rating rule contains a permissive element by stating, "A charge of 25% of the Basic Rate may be charged..." Aside from the above stated rating rule, no guidelines were provided for determining when the Company must apply this discount.

The Company's rating manual contained the following permissive, discretionary rating rule for the valuation of leasehold policies:

4.1 CHARGES:

100% of Basic Schedule of Rates.

The minimum charges may be computed on either the full value of the land and existing improvements or on a lesser amount relating to term of the lease as follows:

- A. Less than twenty-five (25) years – ten (10) times the annual rental.
- B. Twenty-five (25) years or more but less than fifty (50) years – twenty (20) times the annual rental.
- C. Fifty (50) years or more but less than ninety-nine (99) years – the full value of the land and existing improvements.
- D. Insurance in excess of the minimum amount may be issued at the appropriate insurance rate.

The cited rating rule contains a permissive element that states the minimum charges “may be computed on either the full value of the land and existing improvements or on a lesser amount related to the term of the lease...” Such rule affords the Company the opportunity to manipulate the premium charges by determining the value of the policy. Permissive, discretionary rating rules that allow for potential disparate treatment between individuals of the same class and of essentially the same hazard in the amount of premium charged violate Colorado anti-discrimination statutes.

The Company’s rating manual contained the following permissive, discretionary rating rule for the application of a commercial/industrial rate:

2.13 COMMERCIAL/INDUSTRIAL RATE

When an owner’s policy is ordered on Commercial/Industrial property the following rates may be charged: 65% of the Basic Schedule of Rates for the first \$200,000 of the insured amount of each policy plus 80% of the Basic Schedule of Rates for the insurance above that amount.

The cited rating rule contains a permissive element by stating, “... the following rates may be charged:...” Aside from the above stated rating rule, no guidelines were provided for determining when the Company must apply this discounted rate.

Discretionary, permissive minimum charges and/or range of charges:

The Company’s rate manual effective in Colorado during the period under examination contained the following additional charge provision:

1.2 ADDITIONAL CHARGE PROVISIONS:

Additional charges will be made when unusual conditions or title are encountered, or when special risks are insured, or when special services are rendered, or if multiple legal descriptions are to be insured, or when physical inspections are required. The charge for an extraordinary title examination will be a minimum premium of \$50.00 in addition to the Basic Rate.

The cited rule contains a permissive element by stating, “...a minimum premium of \$50.00...” Aside from the above stated rating rule, no guidelines were provided for determining when the additional charge provision exceeds the \$50.00 minimum premium.

The Company’s rate manual effective during the period under examination contained, in part, the following cancellation charges:

1.6 C CANCELLATION CHARGES:

If the commitment is issued and if the order is cancelled, a minimum cancellation fee of \$100.00 must be paid, except that the cancellation fee need not be imposed where a title insurance commitment is furnished in good faith in furtherance of a bona fide sale,...

The cited rule contains a permissive element by stating, "...a minimum cancellation fee of \$100.00..." Aside from the above stated rating rule, no guidelines were provided for determining when the additional charge provision exceeds the \$100.00 minimum premium.

The Company's rate manual effective during the period under examination contained the following charge for a correction due to error or misunderstanding:

1.9 CORRECTION DUE TO ERROR OR MISUNDERSTANDING:

The charge for a policy to correct an error or misunderstanding not the fault to the issuing company, by or between the parties to a transaction will be a minimum service charge of \$25.00 and a maximum service charge of \$250.00. Endorsement Form 110.3 is authorized for use to correct errors in commitments and/or policies and where no change in the effective date is required. In addition, this endorsement form is for use in extending the termination date of commitments as provided for in 1.7B above. This endorsement is not authorized for use in providing affirmative coverage or for other coverages provided in specifically filed endorsements.

The cited rule contains a permissive element by stating, "...a minimum service charge of \$25.00 and a maximum service charge of \$250.00." Aside from the above stated rating rule, no guidelines were provided for determining charges that exceeded the minimum \$25.00 charge, fell below the maximum \$250.00 charge, or otherwise were within the range identified above.

The Company's rate manual effective in Colorado during the period under examination contained the following subdivision guarantee charge.

5.3 SUBDIVISION GUARANTEE

Guarantees for map filing, including the examination of the map, letter of dedication and necessary tax letter may be issued covering a proposed subdivision for a \$50.00 base charge plus \$20.00 minimum additional charge for each ownership easement, right-of-way, or interest searched or reported on.

The cited rule contains a permissive element by stating, "...plus \$20.00 minimum additional charge..." Aside from the above stated rating rule, no guidelines were provided for determining when the additional charge provision exceeds \$20.00.

The Company's rate manual effective in Colorado during the period under examination contained the following time share unit charge:

5.4 TIME SHARE UNITS:

Archuleta County only:

When the time share unit consists of 50 or more time share intervals, the rate shall be \$110.00 minimum for insurance up to \$15,000.00. For insurance in excess of \$15,000.00 the rate premium would be computed in accordance with the normal subdividers rate under the Basic Schedule of Rates for each unit.

The cited rule contains a permissive element by stating, "...the rate shall be \$110.00 minimum..." Aside from the above stated rating rule, no guidelines were provided for determining when the additional charge provision exceeds the \$110.00 minimum premium.

The Company's rate manual effective in Colorado during the period under examination contained rating rule charge:

6.1 VACATED STREET OR ALLEY, EASEMENT OR RIGHT-OF-WAY COVERED IN CONNECTION WITH THE ISSUANCE OF A POLICY:

The vacated portion of a street or alley, or an easement or right-of-way appurtenant to or adjoining the land under search, is considered as non-contiguous to the abutting parcel unless it has been previously insured in the same ownership with the abutting parcel. If it has not been previously insured, the minimum additional charge is \$25.00.

The cited rule contains a permissive element by stating, "...the minimum additional charge is \$25.00." Aside from the above stated rating rule, no guidelines were provided for determining when the additional charge provision exceeds the \$25.00 minimum charge.

The Company's rate manual effective in Colorado during the period under examination contained Subdivision Guarantee charge:

6.9 SUBDIVISION GUARANTEE

Guarantees for map filing, including the examination of the map, letter of dedication and necessary tax letter may be issued covering a proposed subdivision for \$50.00 base charge plus \$25.00 minimum additional charge for each ownership easement, right-of-way, or interest searched or reported on.

The cited rule contains a permissive element by stating, "...plus \$25.00 minimum additional charge ..." Aside from the above stated rating rule, no guidelines were provided for determining when the additional charge provision exceeds the \$25.00 minimum charge.

The Company's rate manual effective in Colorado during the period under examination contained, in part, the following charges for a Mechanics Lien Exception:

7.2 DELETION OF STANDARD PRINTED EXCEPTIONS

...Gunnison County only: \$10.00 minimum.

...Archuleta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma and San Juan Counties only: \$10.00 minimum.

The cited rule contains a permissive element by stating in two sections the charge for a mechanic's lien exception will be a charge of a "...\$10.00 minimum." Aside from the above stated rating rule, no guidelines were provided for determining when the additional charge provision exceeds the \$10.00 minimum charge.

Recommendation #8:

Within 30 days, the Company should demonstrate why it should not be considered in violation of sections 10-3-1104(1)(f)(II) and 10-4-403(1), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating the Company has amended its Colorado Rating Manual and withdrawn any other filed rates and/or rating rules so that the rates and rules exclude any discretionary application of rates resulting in unfair discrimination.

PERTINENT FACTUAL FINDINGS

Relating to

CLAIMS SETTLEMENT PRACTICES

Issue I: Failing to implement standards for the prompt investigation of claims.

Section 10-3-1104(1)(h), C.R.S., defines an unfair claims settlement practice as:

(III) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

The Company's Claims Procedures manual sets forth mandatory procedures for administering claims. *General Application* on page one:

"These claim procedures are intended to constitute basic direction, structure, and procedural guidelines for administering claims asserted against the Company's policies, effective immediately. Although intended to be reasonably comprehensive, these procedures are certainly not exclusive nor exhaustive. These procedures will be amended, enlarged, embellished and modified, from time to time, as experience and practice dictate and as time and necessity require.

Although these procedures are mandatory, they must always be complemented and applied using good common sense; application of sound, established legal, insurance and business principles; and tempered with good judgment and basic wisdom."

TITLE CLAIMS
July 1, 1999 through June 30, 2000

Population	Sample Size	Number of Exceptions	Percentage to Sample
36	36	35	97.2%

An examination of 36 claim files, representing 100% of all Company title claims made in Colorado during the period under examination, showed 35 exceptions (97.2% of the sample) containing seventy-nine (79) instances wherein the Company failed to implement its adopted standards for the prompt investigation of claims arising under insurance policies.

Acknowledgment of Claim: The Company's Claims Procedures manual, page 12 states:

"It is the policy and requirement of this Company that every claim be acknowledged, in writing, directly to the source of the claim, within **three** business days of receipt of the claim.

The claim Acknowledgment Letter should be in the prescribed form utilized by the Company (see Acknowledgment Letter). In general, the claimant should be advised that we have received the claim, information is being obtained from which the claim will be investigated and that we will

provide a definitive response, in writing, as soon as our investigation and analysis of the claim have been completed. The Acknowledgment Letter should also make reference to the Proof of Loss form. The Proof of Loss form (see form) should be sent to the insured along with the Acknowledgment Letter.

The claim Acknowledgment Letter should also include a definitive statement that the Company will honor all of the obligations according to and governed by the terms and provisions of the title policy against which the claim is asserted.”

In thirty-four (34) of the seventy-nine (79) instances, the Company sent an acknowledgement letter that failed to make reference to a proof of loss form, failed to include a proof of loss form and failed to include a definitive statement that the Company will honor all of the obligations according to and governed by the terms and provisions of the title policy against which the claim is asserted.

In one (1) of the seventy-nine (79) instances, the Company failed to send an acknowledgment letter.

Notification of Agent: The Company’s Claims Procedures manual, page 12 states:

“Concurrently with sending a letter of acknowledgment of a claim, the issuing agent should be contacted immediately both to advise of the existence of a claim against the policy issued by that agent and to request information and documentation necessary to resolve the claim. The Notification Letter to the agent must be in the form prescribed by the Company (see Agent Notification Letter).

The agent must be contacted within **three** business days of receipt of the claim.

The requisite information and documentation, including copies of the policy, commitment, endorsements, and any other title product against which the claim may be asserted must be provided immediately, by facsimile if practical, but by overnight express, at minimum. Some claims may require that the agent perform some research, title searching or other resource functions. These services must be commenced and completed and the resulting information provided to claims counsel immediately.”

In fourteen (14) of the seventy-nine (79) instances, the Company failed to send the issuing agent a notification letter.

Notification of Agency Manager: The Company’s Claims Procedures manual, page 13 states:

“The agency manager responsible for the agent whose product resulted in a claim must be notified of the claim, its nature, its projected cost and the agent involved. The agency manager should be advised as the claim progresses and of the claim resolution. As a part of the pro-active philosophy of claims management, the agency manager should be involved in the process to the extent possible. The agency manager can contribute to claim resolution as well as promote communications with the involved agent and the insured. This will usually contribute to efficient and timely resolution of the claim. The Claims Administrator must use the following two guidelines when dealing with the agency manager:

The agency manager must be contacted within **three to ten** business days of receipt of the claim, and;

The agency manager should be advised of the status of the claim on a **monthly** basis.”

In thirty (30) of the seventy-nine (79) instances, the Company failed to send the agency manager a notification letter.

Recommendation #9:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of section 10-3-1104(1)(h)(III), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has amended its practices to assure compliance with this legal requirement.

Issue J: Failing to acknowledge and/or act reasonably promptly upon communications with respect to claims arising under insurance policies.

Section 10-3-1104(1)(h), C.R.S., defines an unfair claims settlement practice as:

(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

**TITLE CLAIMS
July 1, 1999 through June 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
36	36	4	11.1%

An examination of 36 claim files, representing 100% of all Company title claims made in Colorado during the period under examination, showed 4 exceptions (11.1% of the sample) wherein the Company failed to acknowledge or act reasonably promptly upon communications with respect to claims arising under insurance policies.

In one (1) of the four (4) exceptions, the Company failed to acknowledge receipt of a claim from a third party for approximately six (6) months.

In three (3) of the four (4) exceptions, the Company acknowledged receipt of a claim but failed to act for periods of approximately two and one-half (2 1/2), four (4) and eight (8) months.

Recommendation #10:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of section 10-3-1104(1)(h)(II), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has amended its practices to assure compliance with these legal requirements.

PERTINENT FACTUAL FINDINGS

Relating to

FINANCIAL REPORTING

Issue K: Failure to file a Colorado Uniform Financial Reporting Plan and/or failure to submit an annual filing of sufficient financial data to justify Company rates.
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Section 10-4-404, C.R.S. provides in part:

(1) The commissioner shall promulgate rules and regulations which shall require each insurer to record and report its loss and expense experience and such other data, including reserves, as may be necessary to determine whether rates comply with the standards set forth in section 10-4-403. Every insurer or rating organization shall provide such information and in such form as the commissioner may require. No insurer shall be required to record or report its loss or expense experience on a classification basis that is inconsistent with the rating system used by it. The commissioner may designate one or more rating organizations or advisory organizations to assist him in gathering and in compiling such experience and data. No insurer shall be required to record or report its experience to a rating organization unless it is a member of such organization.

Colorado Insurance Regulation 3-5-1(VII), adopted in part to the authority granted under §10-4-404, C.R.S. provides:

K. Each title entity on an annual basis shall provide to the Commissioner of Insurance sufficient financial data (and statistical data if requested by the Commissioner) for the Commissioner to determine if said title entities' rates as filed in the title entities' schedule of rates are inadequate, excessive, or unfairly discriminatory in accordance with Part 4 of Article 4 of Title 10, C.R.S.

Each title entity shall utilize the income, expense and balance sheet forms, standard worksheets and instructions contained in the attachments labeled "Colorado Uniform Financial Reporting Plan" and "Colorado Agent's Income and Expense Report" designated as attachments A & B and incorporated herein by reference. Reproduction by insurers is authorized, as supplies will not be provided by the Colorado Division of Insurance.

Colorado Insurance Regulation 3-5-1 requires all title insurers authorized to provide coverage in Colorado to annually file a "Colorado Uniform Financial Reporting Plan" in a format described and appended to the regulation as "Attachment A".

In addition, the regulation requires all title insurers to file sufficient financial data and, upon request, statistical data to justify the title insurers rates and otherwise assure the rates used by the Company comply with the requirements of section 10-4-403 et. Seq., C.R.S., and are not excessive, inadequate, or unfairly discriminatory.

A review of the Company's 1999 - 2000 financial statements for the period under examination and related documents and filings demonstrated that the Company failed to file a Colorado Uniform Financial Reporting Plan [Colorado Insurance Regulation 3-5-1 (attachment A)] as required by the regulation. In addition, the Company failed to file sufficient financial data to allow the Division to determine whether rates used by the company were excessive, inadequate, or unfairly discriminatory.

Recommendation #11:

Within 30 days, the Company should demonstrate why it should not be considered in violation of the financial data filing requirements established under Colorado Insurance Regulation 3-5-1(VII)(K). In the event the Company is unable to provide such documentation, it should be required to provide evidence that it has amended its annual filing procedures so that those procedures anticipate filing of the Colorado Uniform Financial Reporting Plan (Schedule A).

The Company should also be required to provide written assurances that it will annually file sufficient financial data to allow the Commissioner to determine whether the insurers rates are inadequate, excessive, or unfairly discriminatory and otherwise assure future compliance with Colorado financial reporting and filing laws.

SUMMARY OF RECOMMENDATIONS

for

EXAMINATION REPORT ON
UNITED GENERAL TITLE INSURANCE COMPANY

RECOMMENDATION NUMBER	PAGE NUMBER	TOPIC
1	14	Issue A: Failure to provide the required anti-fraud language on all printed applications for insurance, or on all insurance policies or on all claim forms made available by the Company.
2	17	Issue B: Failure to maintain adequate policy records and/or other information necessary for reconstruction of the rating and/or underwriting of title policies issued by the Company. Failure to produce and/or maintain adequate claims records for market conduct review.
3	20	Issue C: Failure to provide written notification to prospective insureds of the Company's general requirements for the deletion of the standard exception or exclusion to coverage related to unfilled mechanic's or materialman's liens and/or mandatory GAP coverage.
4	22	Issue D: Misrepresenting the benefits, advantages, conditions or terms of insurance policies by omitting applicable endorsements.
5	23	Issue E: Issuing title insurance policies without obtaining a certificate of taxes due or other equivalent documentation from the county treasurer's authorized agent.
6	35	Issue F: Failure to provide adequate financial and statistical data of past and prospective loss and expense experience to justify certain title insurance charges and/or premium rates.
7	38	Issue G: Using rates and/or rating rules not of file with the Colorado Division of Insurance and/or misapplication of filed rates and rating rules.

8	46	Issue H: Engaging in unfairly discriminatory rating practices and adopting rating rules and/or premium charges that are excessive, inadequate or unfairly discriminatory.
9	50	Issue I: Failing to implement standards for the prompt investigation of claims.
10	51	Issue J: Failing to acknowledge and/or act reasonable promptly upon communications with respect to claims arising under insurance policies.
11	54	Issue K: Failure to file a Colorado Uniform Financial Reporting Plan and/or failure to submit an annual filing of sufficient financial data to justify Company rates.

EXAMINATION REPORT SUBMISSION

Stephen St. Cyr, CIE,
John E. Bell
&
Gregory S. Reents
participated in this examination and in the preparation of this report.